

## **Appendix A**

# **MAJOR WATER RESOURCE LEGISLATION SINCE 1994**

Each year, after the legislative session, the District's Office of Counsel prepares a *Legislative Review*. This booklet is a compilation of summaries and analyses of bills that passed during the year's state legislative session that impact or may be of interest to District staff. Each *Legislative Review* has three sections: Summary of the Bill, District Impact and Analysis, and District Action/Rulemaking. Below are brief descriptions of the legislation that most significantly have impacted the District's activities. A more detailed compilation of legislation is available in the *Legislative Review* (SFWMD, 1994, 1995, 1996, 1997, 1998, 1999) or within the legislation. Throughout the section below the term "districts" refers to any of Florida's five water management districts.

## **1994**

### **Water Management District Review Commission (CS/SB 1068)**

CS/SB 1068 created the Water Management District Review Commission whose responsibilities are to perform a comprehensive review of Florida's water management system including the following:

- The legal responsibilities of the districts
- The need for water management districts and regional offices of the Florida Department of Environmental Protection (FDEP)
- Ways to improve land management activities of the districts
- The costs of operating the districts
- Funding mechanisms available to the districts
- Ways to improve financial and programmatic accountability of districts
- Potential land management agreements between the districts and other agencies
- Potential revision of the districts' budget development and adoption procedures
- Whether to continue the current system of district governing board appointments
- The feasibility of creating new committees to oversee the districts

### **The 1994 Wetlands Act (CS/SB 1346)**

The 1994 Wetlands Act (CS/SB 1346) impacts the District's regulatory and planning programs. This act is comprised of three main components: establishment and ratification of a unified statewide wetland delineation methodology; creation of conditional exemptions from specified permit review criteria for certain storm water and wastewater treatment ponds and for wetlands created by mosquito control activities; and grandfathering for certain projects.

### **The Everglades Forever Act (SB 1350)**

In 1994, the Florida Legislature adopted a major piece of legislation, the Everglades Forever Act, which affected the water resources of South Florida. This legislation was originally known as SB 1350 and is codified at Section 373.4592, F.S. The Everglades Forever Act is based on legislative findings that the unique Everglades ecosystem is endangered due to adverse changes in water quality, quantity, distribution, and timing of flows. The Everglades Forever Act creates the Everglades Program. The Everglades Program is comprised of seven distinct elements, each element has multiple, implementing projects. The comprehensive nature of the Everglades Forever Act legislation is understood by describing the range of elements. These elements are as follows:

- The Everglades Construction Project - 18 projects
- Hydropattern Restoration - 7 projects
- Research and Monitoring - 12 projects
- Regulation - 10 projects
- Exotic Species Control - 2 projects
- Funding - 5 projects,
- Annual Progress Report - 1 project.

Given the broad scope of the Everglades Forever Act, the impact of this legislation is, and will continue to be, felt for many years. Finalization of state water quality standards and integration of these programs with water supply planning efforts and the Comprehensive Everglades Restoration Plan (CERP) will be critical in the years to come.

## **1995**

### **The Florida Preservation 2000 Act (CS/HB 735)**

The Florida Preservation 2000 Act (CS/HB 735) was essentially superseded by the Florida Forever Act that passed in 1999.

### **The Private Property Rights Protection Act and the Florida Land Use and Environmental Dispute Resolution Act (CS/HB 863)**

The Private Property Rights Protection Act and the Florida Land Use and Environmental Dispute Resolution Act (CS/HB 863) provide that when an action of a governmental entity has inordinately burdened an existing use of real property or a vested right to a specific use of real property, the property owner is entitled to various forms of relief, which may include compensation for the actual loss to fair market value of the property caused by the government action. This creates a separate cause of action other than those that may arise under *takings* law, and applies to actions that do not rise to the level of being a *taking* under the Florida or United States constitutions.

### **Alternative Water Supplies (HB 2609)**

Alternative Water Supplies (HB 2609) legislation requires districts to include money in their annual budgets for the development of alternative water systems within Water Resource Caution Areas (WRCAs). Beginning in 1996, these budgeted amounts are to be disbursed annually to providers and users based on stated criteria for eligibility and grant committee input.

## **1996**

### **The Henry Swanson-Bruce McEwan Bluebelt Act of 1996 (SB 10)**

The Henry Swanson-Bruce McEwan Bluebelt Act of 1996 (SB 10) charges districts to inventory ground water resources and designate prime ground water recharge areas for use by local governments as a planning tool for water supply and ground water protection. To encourage landowners to preserve high-water recharge lands, municipalities and counties are authorized to adopt, by ordinance, a tax incentive program for land owners.

## **1997**

The 1997 Legislative Session was marked by a great deal of interest in water supply planning and water use regulation issues. Most of these issues were debated during the 1996 Legislative Session but did not result in legislation in 1996. There was also significant debate over the implementation of the projects within the Everglades Forever Act. A Joint Legislative Committee on Everglades Oversight and Accountability was created to monitor the SFWMD's implementation of the Everglades Forever Act.

## **An Act Relating to Water Supply and Minimum Flows and Levels (HB 715)**

An Act Relating to Water Supply and Minimum Flows and Levels (MFLs) (HB 715) includes provisions, requirements, and/or authority for the following items:

- Requires a Florida water plan
- Requires District Water Management Plans (DWMPs)
- Requires Districtwide water resource assessments and details contents required
- Requires regional water supply plans
- Requires a level of certainty planning goal
- Requires establishment and implementation of MFLs
- Authorizes interagency agreements for projects that cross district boundaries
- Details the schedule for appointing district governing board members
- Requires district governing board members to have significant expertise in water resource management or business management
- Describes district staffing responsibilities for an ombudsman, executive director, and legal staff
- Delineates water resource development as the proper role of districts
- Delineates water supply development as the proper role of local governments and water users
- Requires districts to fund water resource development
- Provides that lands owned and controlled by districts may be used for multiple purposes
- Provides that consumptive use permits may be issued for a duration of up to 20 years
- Provides for a reevaluation of areas previously delineated as contaminated water supplies
- Provides procedures for distributing district budgets and audits
- Provides notice requirements for district budget workshops
- Authorizes the Executive Office of the Governor to approve or disapprove district budgets
- Delineates conditions under which districts may utilize their lands for water supply development and water resource development
- Authorizes regional water supply authorities to implement alternative sources of potable water independently or jointly with districts

- Makes funds from the Water Quality Assurance Trust Fund available to subsidize constructing potable water wells in areas requiring contamination remediation
- Outlines conditions for severance pay for district employees
- Requires a study to examine district employee compensation
- Changes the submission date for the annual reuse report from January 30 to June 1
- Allows for extensions of submerged land leases within areas designated as historic
- Authorizes FDEP to issue licenses for importation and possession of anadromous sturgeon
- Provides penalties for violating certain fishing limits
- Provides that it is illegal to use nets outside of legal limits for harvesting marine life
- Provides inspection and reporting procedures regarding crawfish
- Provides for the establishment of a three-year pilot program for certain saltwater products license holders
- Provides that the FDEP shall classify discharge of demineralization concentrate as a potable water by-product

### **An Act Relating to Land Management and Acquisition (HB 1119 and HB 1577)**

An Act Relating to Land Management and Acquisition (HB 1119 and HB 1577) precludes districts from excluding cattle dipping vats from acquisition programs using state funds, and removes district liability associated with leaking vats. The act also adds archeological or historical value to the districts' criteria to be considered when acquiring lands. The Florida Forever Advisory Council (a seven member council appointed by the Governor) and each district was required to commission a study, to be completed by October 1, 1997, to determine remaining needs and priorities of the Preservation 2000 Program. Leases, easements, or licenses granted on Preservation 2000 lands were required to be compatible with the purposes for which the property was acquired. The redistribution of unencumbered Preservation 2000 funds in accounts for more than two years was postponed from Fiscal Year (FY) 1998 to FY1999. Properties valued under \$500,000 require one appraisal, while properties over \$500,000 require two appraisals. If the two appraisals differ significantly the district may obtain a third.

Regarding land management, beginning in FY1999, if more than one-third of a district's management plans are overdue, it will receive only 75 percent of the acquisition funds which it would be otherwise be entitled from the Preservation 2000 Trust Fund. Districts are to report to FDEP annually on the progress of the funding, staffing, and resource management for each project it manages. Multiple land uses are allowed unless

prohibited by covenants. The act also provided substantially more management funding by increasing the percentage of each district's Water Management Lands Trust Fund allocated for management, maintenance, and capital improvements from up to 15 percent to the entire allocation. Districts are encouraged to use soil and water conservation districts and volunteers to manage lands. Districts are also required to establish management review teams to review land management practices.

### **An Act Relating to Everglades Restoration Oversight and Accountability of the South Florida Water Management District (HB 1775)**

A Joint Legislative Committee on Everglades Oversight was established within the Florida Legislature to monitor the SFWMD's implementation of the Everglades Forever Act. The SFWMD is required to deposit funds for projects undertaken pursuant to the Everglades Forever Act into the Everglades Trust Fund that was created by ballot through Amendment 6 in the November 1996 elections. The SFWMD is also required to submit information relating to the impacts of federal Clean Water Act permits on the funding and time lines for the Everglades Program. The SFWMD is also required to file a truth in borrowing statement and a financial report whenever it incurs a debt or obligation because of the Everglades Forever Act. Requirements are also established for the use of funds towards Everglades restoration, including quarterly reporting to Florida's Governor and Legislature.

## **1998**

In 1998, the only water resource legislation that passed of a potentially high level of significance to the SFWMD is the Local Source First Bill.

### **Local Source First (CS/SB 312 and 2298)**

The Local Sources First Bill imposes a mandate upon districts to encourage the use of water from sources nearest the area of use or application. The bill specifies the factors to be considered when evaluating whether a potential end use of ground or surface water across county boundaries is in the public interest.

## **1999**

The 1999 Legislative Session resulted in significant legislation affecting water resource management in Florida. These included the Florida Forever, the Restudy, and Total Maximum Daily Loads (TMDL) Acts.

### **The Restudy Bill (CS/SB 1672)**

The Restudy Bill sets in motion a mechanism for state participation for the Everglades restoration pursuant to the Restudy. The primary emphasis is to provide a process to facilitate and support implementation of the project in cooperation with federal

agencies and the U.S. Congress, while addressing interests of the State of Florida. The law emphasizes coordination between the SFWMD, state and federal agencies, and stakeholders to streamline implementation of the Restudy.

The procedural requirements of the law include significant intergovernmental coordination and evaluation. Under the Restudy Bill, the SFWMD is authorized to act as local sponsor for Restudy projects, subject to review and oversight by the FDEP. As local sponsor, the District is required to participate in the development of Restudy project components. Project components are subject to review by the FDEP before they are submitted to Congress for authorization or before receiving additional state funds, and the Executive Office of the Governor is required to review all proposed expenditures for project components in the SFWMD's budget.

### **The Florida Watershed Restoration Act (TMDL Bill) (SB 2282)**

The Florida Watershed Restoration Act (TMDL Bill) (SB 2282) requires a massive undertaking for the FDEP. The bill requires that the FDEP coordinate and consult with districts on the assessment list, assessment methodology, calculation methodology, Pollution Load Reduction Goals (PLRGs), implementation, implementation/evaluation of interim measures, and a 2005 report. Districts will also participate with FDEP in the technical advisory committee created in the bill to develop recommendations for a 2001 report. Rulemaking for Lake Okeechobee TMDLs will commence immediately.

### **The Florida Forever Program (SB 908)**

Florida Forever significantly affects districts' land acquisition, land disposal, and land management programs. The act streamlines funding for land acquisition for conservation purposes into one primary source, replacing prior funding from Preservation 2000, the Conservation and Recreation Lands (CARL) Trust Fund, and the Water Management Land Trust Fund. The act also creates a Florida Forever Advisory Council that is directed to develop goals and performance measures by November 1, 2000, to guide agencies' use of the Florida Forever funds. Funding is to be used to implement goals and objectives recommended by the Florida Forever Advisory Council. Districts are encouraged to enter into cooperative land management agreements with state agencies or local governments to provide for the coordinated and cost-effective management of lands.

The SFWMD is required to develop a Florida Forever five-year work plan that must identify projects that meet the criteria set forth in the statute. The five-year work plan must be integrated with existing Surface Water Improvement and Management (SWIM) plans, Save Our Rivers (SOR) land acquisition lists, storm water management projects, proposed water body restoration projects and other properties or activities that would assist in meeting the goals of the Florida Forever Act. The project list submitted by the District shall include fourteen items of information for each project, including numeric performance measures, baselines, and standards for each project.

## REFERENCES

- SFWMD. 1994. *1994 Legislative Review*. Office of Counsel, South Florida Water Management District, West Palm Beach, FL.
- SFWMD. 1995. *1995 Legislative Review*. Office of Counsel, South Florida Water Management District, West Palm Beach, FL.
- SFWMD. 1996. *1996 Legislative Review*. Office of Counsel, South Florida Water Management District, West Palm Beach, FL.
- SFWMD. 1997. *1997 Legislative Review*. Office of Counsel, South Florida Water Management District, West Palm Beach, FL.
- SFWMD. 1998. *1998 Legislative Review*. Office of Counsel, South Florida Water Management District, West Palm Beach, FL.
- SFWMD. 1999. *1999 Legislative Review*. Office of Counsel, South Florida Water Management District, West Palm Beach, FL.